

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

TRUDY R. EARNEST,)
Plaintiff,)
v.) No. 2:16 CV 61 CDP
NANCY A. BERRYHILL,)
Acting Commissioner of Social Security,)
Defendant.)

MEMORANDUM AND ORDER

Plaintiff Trudy R. Earnest prevailed on her appeal for judicial review of an adverse decision of the Social Security Administration and now requests attorney's fees under the Equal Access to Justice Act (EAJA) in the amount of \$3,211.00. The Commissioner does not object to plaintiff's request for fees and asks that I order payment in the amount requested. I will grant the request.

This matter came before me on plaintiff's appeal for judicial review of an adverse decision of the Social Security Administration. In a Memorandum, Order, and Judgment entered June 12, 2017, I reversed the Commissioner's decision and remanded the matter to the Commissioner for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). Plaintiff now seeks an award of attorney's fees inasmuch as she is a prevailing party, has a net worth of less than two million dollars, and incurred these fees in this action. 28 U.S.C. § 2412(d). The

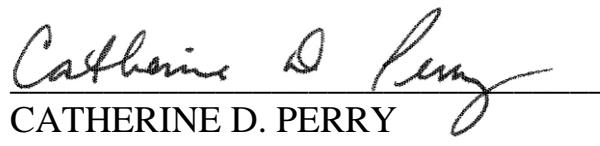
Commissioner does not oppose plaintiff's motion but requests that any award be made payable in accordance with *Astrue v. Ratliff*, 560 U.S. 586 (2010). Upon review of plaintiff's motion and the Commissioner's response, I find the requested fees and the Commissioner's requested terms of payment to be reasonable.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Application for Relief Under the Equal Access to Justice Act [27] is **GRANTED**.

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 2412(d), plaintiff shall recover attorney's fees from the Social Security Administration in the amount of Three Thousand, Two Hundred Eleven and 00/100 Dollars (\$3,211.00).

IT IS FURTHER ORDERED that, under the terms of the Fee Agreement executed by the plaintiff in this case (*see* ECF #27 at p. 10), the award shall be made payable to Dempsey, Dempsey & Moellring, P.C., unless plaintiff has a pre-existing debt owed to the United States, in which case the award shall be made payable to the plaintiff and subject to offset to satisfy that debt.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 17th day of August, 2017.